

CITY OF ROSENBERG

SPECIAL CITY COUNCIL MEETING MINUTES

On this the 30th day of September, 2014, the City Council of the City of Rosenberg, Fort Bend County, Texas, met in a Special Session, in the Rosenberg City Hall Council Chamber, located at 2110 4th Street, Rosenberg, Texas.

PRESENT

Vincent M. Morales, Jr.	Mayor
William Benton	Councilor at Large, Position 1
Cynthia McConathy	Councilor at Large, Position 2
Jimmie J. Pena	Councilor, District 1
Susan Euton	Councilor, District 2
Dwayne Grigar	Councilor, District 3
Amanda Barta	Councilor, District 4

STAFF PRESENT

Robert Gracia	City Manager
Scott M. Tschirhart	City Attorney
Linda Cernosek	City Secretary
John Maresh	Assistant City Manager of Public Services
Jeff Trinker	Executive Director of Support Services
Joyce Vasut	Executive Director of Administrative Services
Travis Tanner	Executive Director of Community Development
Angela Fritz	Executive Director of Information Services
James Lewis	Director of Technology
Charles Kalkomey	City Engineer
Dallis Warren	Police Chief
Wade Goates	Fire Chief
Darren McCarthy	Parks and Recreation Director
Randall Malik	Economic Development Director
Lisa Olmeda	Human Resources Director
Melissa Pena	Project Director
Kaye Supak	Executive Assistant
John Johnson	Police Officer
Dustin Schroud	Police Officer

The City Council reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by Title 5, Chapter 551, of the Texas Government Code.

CALL TO ORDER.

Mayor Morales called the meeting to order at 6:00 p.m.

GENERAL COMMENTS FROM THE AUDIENCE.

Citizens who desire to address the City Council with comments of a general nature will be received at this time. Each speaker is limited to three (3) minutes. In accordance with the Texas Open Meetings Act, the City Council is restricted from discussing or taking action on items not listed on the agenda. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

COMMENTS FROM THE AUDIENCE FOR CONSENT AND REGULAR AGENDA ITEMS.

Citizens who desire to address the City Council with regard to matters on the Consent Agenda or Regular Agenda will be received at the time the item is considered. Each speaker is limited to three (3) minutes. Comments or discussion by the City Council Members will only be made at the time the agenda item is scheduled for consideration. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

CONSENT AGENDA

1. REVIEW OF CONSENT AGENDA.

All Consent Agenda items listed are considered to be routine by the City Council and may be enacted by one (1) motion. There will be no separate discussion of Consent Agenda items unless a City Council Member has requested that the item be discussed, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Regular Agenda.

A. CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2014-39, AN ORDINANCE GRANTING CONSENT TO THE FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 152 FOR THE SALE AND ISSUANCE OF UNLIMITED TAX BONDS, SERIES 2014, IN AN AMOUNT NOT TO EXCEED \$1,865,000.

Executive Summary: Ordinance No. 2014-39 granting the City's consent to Fort Bend County Municipal Utility District No. 152 to sell and issue bonds in an amount not to exceed \$1,865,000 was included in the agenda packet for consideration. The development is generally identified as Walnut Creek and is located at FM 2977 and Ricefield Road.

On August 12, 2004, Lennar Homes of Texas Land and Construction, Ltd., and F. Kirby Cobb Trust submitted a petition to the City to create a Municipal Utility District that included approximately 327 acres located within the corporate limits and extraterritorial jurisdiction of the City of Rosenberg, to be known as Fort Bend County Municipal Utility District No. 152 (MUD No. 152). Accordingly, the Petition for Consent and associated Ordinance No. 2004-27 were approved by City Council at that time.

The first bond sale was approved by City Council on September 21, 2010, in the amount of \$2,380,000 through Ordinance No. 2010-21. This will be the second Unlimited Tax Bond sale for MUD No. 152. The second bond sale application was submitted by MUD No. 152 to the Texas Commission on Environmental Quality (TCEQ) in October 2013 requesting a proposed sale in the amount of \$2,100,000; however, the amount has been amended to \$1,865,000.

Much of the submission documentation provided by MUD No. 152 for this proposed sale such as the Bond Order authorizing the Issuance of Bonds by MUD No. 152, the Preliminary Official Statement/Notice of Sale, Resolution Authorizing the Issuance of Bonds by MUD No. 152, Cash Flow Analysis, Debt Fund Schedule, Summary of Costs, TCEQ application/submission, along with minute excerpts and related Ordinances/Resolutions are available for review in the City Secretary's Office.

Staff has reviewed the documentation and found it to be in compliance with applicable City Ordinances. Staff is recommending approval of Ordinance No. 2014- 39 thus authorizing the bond issue to proceed.

B. CONSIDERATION OF AND ACTION TO APPROVE SPEED HUMPS/CUSHIONS TO BE INSTALLED ON SALLY ANNE DRIVE USING AN ALTERNATE CONSTRUCTION MATERIAL IN LIEU OF ASPHALT.

Executive Summary: This item has been included to allow City Council the opportunity to authorize the previously approved asphalt speed humps on Sally Anne Drive to be installed as speed cushions utilizing an alternate construction material in lieu of asphalt. The traffic calming devices constructed of the alternate material could be more easily installed and removed without damaging the existing asphalt pavement. If the traffic calming measures are determined to be effective along Sally Anne Drive, the alternate material devices could be easily removed and replaced with permanent asphalt speed cushions. The speed cushion devices made from the alternative material could then be reinstalled at another location.

Staff does recommend approval of the request as presented.

Item B was moved to the Regular Agenda as Item 2A.

Action: Councilor McConathy made a motion, seconded by Councilor Barta to approve Item A on the Consent Agenda. The motion carried by a unanimous vote.

AGENDA

2A. CONSIDERATION OF AND ACTION TO APPROVE SPEED HUMPS/CUSHIONS TO BE INSTALLED ON SALLY ANNE DRIVE USING AN ALTERNATE CONSTRUCTION MATERIAL IN LIEU OF ASPHALT.

Executive Summary: This item has been included to allow City Council the opportunity to authorize the previously approved asphalt speed humps on Sally Anne Drive to be installed as speed cushions utilizing an alternate construction material in lieu of asphalt. The traffic calming devices constructed of the alternate material could be more easily installed and removed without damaging the existing asphalt pavement. If the traffic calming measures are determined to be effective along Sally Anne Drive, the alternate material devices could be easily removed and replaced with permanent asphalt speed cushions. The speed cushion devices made from the alternative material could then be reinstalled at another location.

Staff does recommend approval of the request as presented.

Key discussion points:

- John Maresh, Assistant City Manager of Public Services read the Executive Summary.

Questions/Comments:

Q: How much will the cushions cost? How many humps will be installed?

A: Approximately \$7,500 for three sets on Sally Anne Drive.

Q: If we like the humps can they be replaced with permanent asphalt?

A: Yes.

Q: According to the studies this type of humps will BE just as effective?

A: How long do you propose to use these on Sally Anne?

A: That has not been determined at this time.

Q: Would a traffic study have to be done each time we removed/moved these speed humps?

A: At this time the answer is no, but in the long term we are looking at the comprehensive plan and what that plan says.

Q: Mayor Morales asked Fire Chief Goates if this particular device has a public safety issue and will this device be better than the hard asphalt?

A: Yes. He met with John Maresh and some of the issues were worked out before we came up with the plan.

Q: Are these your preference?

A: Yes. The straight line asphalt would be harder on the fire equipment.

Q: Councilor Pena stated he talked to John Maresh about this. Once asphalt is laid down you create a cavity when you start digging it out and destroy the road. The idea of using this is more accommodating to the area because it is removable and replaceable. He praised staff for looking at this instead of the asphalt.

Q: Does our Public Works have the ability to install speed humps?

A: Probably not. We don't have the equipment to get proper angles and to compact it correctly.

Action: Councilor McConathy made a motion, seconded by Councilor Benton to approve speed humps/cushions to be installed on Sally Anne Drive using an alternate construction material in lieu of asphalt. The motion carried by a unanimous vote.

2. CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1859, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, AMENDMENT NO. 4 TO THE TOWN CENTER, ROSENBERG, TEXAS DEVELOPMENT AGREEMENT, BY AND BETWEEN THE CITY AND PARTNER A-S 70 HWY 59-FM 762, L.P., A TEXAS LIMITED PARTNERSHIP.

Executive Summary: NewQuest Properties, the developer of Brazos Town Center, has requested a fourth amendment to their Development Agreement and Conceptual Plan. The proposed Amendment No. 4 and Revised Exhibit "B," Conceptual Plan, involves two (2) tracts. An aerial/vicinity map was attached for reference:

1. The 21-acre tract located on the north side of Town Center Boulevard, approximately 500' east of FM 2218 and currently designated for commercial development on the approved Land Plan; and,
2. The 20-acre tract located on the east side of Town Center Boulevard, approximately 700' north of Commercial Drive and currently designated for townhome development on the approved Land Plan.

The developer proposes to develop the 21-acre tract as fifty-five-foot (55') single-family residential lots. The "Subdivision" Ordinance currently requires sixty-foot (60') lots. To compensate for the reduction in lot size, pursuant to the Planned Unit Development (PUD) provisions of the "Subdivision" Ordinance, the developer proposes the following standards be added to the Development Agreement:

- Residences on said single-family lots shall be a minimum of 2,000 square feet in size;
- Residences shall have three-sided masonry exterior;

- The tract shall have a maximum of 73 lots or 3.4 units per acre;
- The tract shall have a minimum of three (3) acres in landscape/open space reserves or .04 acres per lot; and,
- The minimum lot size shall be 7,000 square feet.

Additionally, the developer proposes to develop the 20-acre tract as twenty-four-foot (24') to twenty-eight-foot (28') townhome lots. The approved Conceptual Plan calls for the thirty-foot (30') townhome lots, and the "Subdivision" Ordinance currently requires minimum twenty-five-foot (25') lots for townhomes. To compensate for the reduction in lot size, again, pursuant to the Planned Unit Development (PUD) provisions of the "Subdivision" Ordinance, the developer proposes the following standards be added to the Development Agreement:

- Residences on said townhome lots shall be a minimum of 1,700 square feet in size;
- Residences shall have three-sided masonry exterior with a landscape buffer between buildings;
- The tract shall have a maximum of 139 units or seven (7) units per acre;
- The tract shall have a minimum of 5.5 acres in landscape/open space reserves or .04 acres per unit;
- Minimum fifty-foot (50') street right-of-way width;
- Minimum twenty-seven-foot (27') pavement width measured from inside of curb to inside of curb;
- Minimum average lot size of 2,900 square feet;
- Minimum twenty-foot (20') front building lines on all lots; and,
- A two-car garage shall be required on each lot.

At the regular meeting on September 17, 2014, the Planning Commission unanimously recommended approval to City Council of Amendment No. 4 to the Town Center, Rosenberg, Texas Development Agreement. Amendment No. 4 to the Town Center Development Agreement is attached to Resolution No. R-1859.

Key discussion points:

- Travis Tanner, Executive Director of Community Development, read the Executive Summary.
- Councilor Euton stated even though there is a change, it looks like this would be an asset to us and is a nice plan.
- Councilor Pena stated the apartments are very high end. The question has been asked who would rent them, but the developer had looked at this and no one would put money in an investment like this without knowing it is a good investment.
- Councilor Grigar stated the middle units are a better product than you would normally get. The end units will have a lot more green space and openness.
- Councilor Barta stated she doesn't mind the townhomes or subdivision but is concerned with giving variances.
- Councilor Benton stated he thinks they will be the highest quality in Rosenberg.
- Councilor McConathy stated she appreciates the upgrade being put into these apartments.

Action: Councilor Benton made a motion, seconded by Councilor Grigar to approve Resolution No. R-1859, a Resolution authorizing the City Manager to execute, for and on behalf of the City, Amendment No. 4 to the Town Center, Rosenberg, Texas Development Agreement, by and between the City and Partner A-S 70 Hwy 59-FM 762, L.P., a Texas Limited Partnership. The motion carried by a unanimous vote.

3. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1860, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, AMENDMENT NO. 5 TO THE TOWN CENTER, ROSENBERG, TEXAS DEVELOPMENT AGREEMENT, BY AND BETWEEN THE CITY AND PARTNER A-S 70 HWY 59-FM 762, L.P., A TEXAS LIMITED PARTNERSHIP.**

Executive Summary: NewQuest Properties, the developer of Brazos Town Center, has requested a fifth amendment to their Development Agreement and Conceptual Plan. The proposed Amendment No. 5 and Revised Exhibit "B," Conceptual Plan, involves one (1) tract. An aerial/vicinity map was attached to the previous Agenda item for reference:

3. The vacant 10.8-acre tract located at the intersection of Town Center Boulevard and Vista Drive and currently designated for office development on the approved Land Plan.

The developer proposes to develop the 10.8-acre tract as 234 apartment units. City ordinances contain a number of requirements with which the project would not comply, including the number of parking spaces, density (14 units per acre maximum), maximum of 200 units, and two (2) story maximum height. To compensate for not meeting these requirements, pursuant to the Planned Unit Development (PUD) provisions of the "Subdivision" Ordinance, the developer proposes the following standards be added to the Development Agreement:

- Said multifamily development shall be at least seventy (70) percent masonry exterior;
- Said multifamily development shall be comprised of no more than two hundred thirty-four (234) units, at

least seventy-five (75) percent of which have direct attached garages, and at least sixty (60) percent of which are one-bedroom;

- Maximum density of twenty-two (22) units per acre;
- Maximum overall height of three (3) stories, and maximum height of two (2) stories for buildings fronting on Town Center Boulevard and Vista Drive rights-of-way;
- Minimum parking ratios of 1.5 spaces per one-bedroom unit, two (2) spaces per two-bedroom unit, and 2.5 spaces per three-bedroom unit; and,
- Site to consist of a minimum of fifteen (15) percent landscaping, open space, and amenities (including amenity center, gym, and pool).

At the regular meeting on September 17, 2014, by a vote of 4-2, the Planning Commission recommended approval to City Council of Amendment No. 5 to the Town Center, Rosenberg, Texas Development Agreement. Amendment No. 5 is attached as Exhibit "A" to Resolution No. R-1860.

The following speakers addressed Council, as follows:

- **Dan Ives, 2500 Pecan Drive, Rosenberg –**
 - First of all, I thank you for finally developing a comprehensive plan for our city...A roadmap for decision making...when completed, please don't put it on the shelf and forget about it.
 - A primary responsibility of City Council is to take into consideration the welfare of the future of Rosenberg, not just in the short term, but in the long term as well.
 - In such respect, our current multi-family ordinances were put into place a very long time ago...for the long term of Rosenberg.
 - The impact of apartments on city services of fire and police is monumental. The impact on our schools hits our school tax pocketbook...Even more so, when multi-family ordinances will allow low-income housing to be built. Our five elementary schools in Rosenberg already have 80% to 90% of their children on free and reduced priced meals. It is not fair to dilute the education of the children we already have who are from low income families.
 - I'm greatly concerned that the figure of 28% apartment ratio to single family dwellings is already too great of a percentage for the well-being of the future of Rosenberg. Over one-fourth is too much!! To take this issue a step further, total rental housing in Rosenberg has reached 48%. Not Good!!
 - Apartment units deteriorate immensely within a twenty (20) year period. A classic example is Bayou Bend Apartments in my neighborhood...thirty years ago it was a Rosenberg jewel. Take a look at it today. Parking problems, plus. Because of the great number of police calls for city apartments, we have had to create a special police task force to monitor the apartments.
 - If folks want to build more apartments in our community, that's fine, but build them with the quality standards of our current multi-family ordinances...NO VARIANCES!! Don't open the door to low income housing projects.
 - I ask you to think before you vote on this one. Do you want to be another Sharpstown?
- **Wayne Poldrack, 2514 Pecan Drive, Rosenberg –**
 - He wanted to focus on the proposed project verses our ordinances. Our ordinance says a maximum of 200 units. This says 234 – 17% extra. Density – our ordinance says 14 – proposal is 22 units per acre. Stories – our ordinance says 2 – this is three stories. Parking for 1 bedroom – our ordinance says 4 (which may be a little aggressive) but they are proposing 1.5 parking spaces. Two bedrooms – our ordinance says 5 parking spaces – they are proposing 2 parking spaces. 3 bedrooms – our ordinance is 6 parking spaces – they are proposing 2.5 parking spaces. Open space they are proposing 15% and our ordinance says 30%.
 - Only one size of the apartments exceeds our standards. Basically everything in this project is over our ordinance standards.
 - If we grant variances do we open the door to other projects we may not want? We have had some come to Planning Commission and we have turned them down. Is it fair to other developers to not give them variances?
 - We just started our long range plan and since we have such high rental and apartment occupancy in Rosenberg shouldn't we wait until the comprehensive plan is finished until we make a decision on this or any other multi-family project? There is not a shortage of apartments in Rosenberg. It will not hurt to wait a few months to approve another project.
 - I hope Council will consider and say no and shelve this project until after the comprehensive plan. At a minimum, I would hope you would consider making the developer come closer to compliance with our ordinance.

Key discussion points:

- Mayor Morales read the Agenda Item.

- Travis Tanner gave an overview of the location and what the developer is proposing. It is located at the intersection of Town Center Boulevard and Vista Drive. Their current land plan calls for this to be office development and they are proposing to open it up for multi-family development.
- He reviewed the standards the developer is proposing. Maximum of 234 units or 22 units per acre. Minimum of 70% masonry exterior on the buildings. 75% of the units will have attached garages. 60% - 1 bedroom units. The maximum overall height is three stories but the buildings fronting on Vista and Town Center Boulevard will be two story buildings. The parking ratio is 1.5 spaces per one bedroom unit, 2 per two bedroom and 2.5 for three bedroom unit. They will have a minimum of 15% landscaping, open space and amenities including their amenity center gym and pool in the development.
- A conceptual plan was shown.
- At the meeting a few weeks ago the Planning Commission recommended by a vote of 4 to 2 that City Council approve this development agreement and land plan amendment.

Questions/Comments:

- Councilor Euton stated she agreed with the comments made from the audience that we are giving up a lot of concessions. Very few of our current standards are being met. She's not sure this is the best for Rosenberg at this time. With the high rental percentage we have, she would prefer to wait on the comprehensive plan to see if they agree with our current standards or if we should relax them. She does not believe we should move forward with this at this time.
- Councilor Pena stated he would invite the developer to speak on some of the ordinances we have and how they would be met.
- Steve Alvis, Ella Lee, Houston, Texas, developer of Brazos Town Center stated he was in the workshop when the current ordinance was established. The ordinance is such that any multi-family project built is going to come before you so you have the ability to dictate architecture, parks, deed restrictions, etc. The member in the audience mentioned one of your current projects that has deteriorated. Why has it deteriorated? Well, it is not in a master planned community. He brought the recorded deed restrictions in perpetuity of this master planned community which is recorded and covers the entire 550 acres. This is the exact same document word for word as the Woodlands. In your current multi-family when it's time for a paint job or do the landscape a little nicer and maintain it to a certain quality, you as the City do not have the tools to say paint it or I'll paint it for you and charge you for it. This gives me that tool and allows that project to stay Class A in perpetuity. For twenty-seven years he has been developing these town centers and it is critical to both the Town Center itself to have a maximum density. There is \$43 million of public infrastructure that was put in the ground in Brazos Town Center and was meant for very high density. Did we try to get office space in that location, yes. But no office wanted to be next to the two multi-family apartment complexes. It could have been single family, but no single family development wants to be on a ten acre tract next to the two multi-family projects. If you recall, I didn't build one apartment complex. That was built before we were there.
- He has found this is a \$35 million dollar project and a normal family project is on 19 acres and \$35 million. That is a lot of money per square foot. To get a yield this will be very high rent. What Rosenberg does need is the upward mobile young professional right out of school with a degree and that is why it is 60% one bedroom units. The other thing in our deed restrictions is multiple families can't reside in the same unit. You don't have that in the city. We have that in our deed restrictions. It can be only one family with two people per room. We can't have five people staying in a one-bedroom unit, which is some of the problems you have experienced in Rosenberg. It is mandated by deed restrictions and professionally run by a master association run by a management company. If there is ever a violation, we have the teeth in that document to immediately cure it. You as a city do not have that ability today.
- He encouraged Council to rethink it. Achieving critical mass in Brazos Town Center is the goose that lays the golden egg here for all of us in the city. It can't be supported by the 50,000 people in your city. It has 250,000 people that support that project to achieve those sales that does give you the income to be able to do other things in your city. It was always planned from day one in this project. If I could build a 20 story hi-rise in there and the market would bear that today I'd be asking you to approve that.
- We were very patient in that project for 8 or 9 years now to achieve the highest value – look at the single family, it was top of your market. Everything we have done in there I hope you are pleased with. I would ask if there's anything you are not pleased with. My choice with the property if I don't do this is what—does anybody have a suggestion?
- Councilor Pena stated they commented on the parking situation. As a developer is the 1.5 parking spaces amicable?

- Steve Alvis stated absolutely. The reason your ordinance is written, is no different than Pasadena's ordinance. You can decide as a Council do I want that or don't I. This is a project you should want. It is encumbered by the Master Association. It has a set of deed restrictions that far surpass anything you as a city can place on it. You have seen the two I have already built in there. I've heard not one complaint, in fact, I've heard nothing but from Council Members that are pleased with it.
- I'd encourage you to approve this project. It has a 10,000 square foot amenity center; it sits across from the large park we built and the large dog park. Maybe it doesn't have exactly the same number of green space but green space overall in the 550 acres far exceeds any ratio you have in the city. This is an extremely high-end project. This \$35 million project is the same project we are building next to the ball park in Sugar Land. It is the most high-end project you will have in your city. It needs to be built, you need this type housing in your city. It is not a burden on your school district. In fact, it is probably a plus of \$35 million tax value paying into the school district. There will be very few children in this project with that many one bedroom units. This is the kind of project you should approve.
- Councilor Grigar asked Travis Tanner if we have a garage requirement in our multi-family ordinance. This project has 75% with direct attached garages which is a plus, and is something a young professional looks for. When a subdivision comes in, is it mandatory that they implement deed restrictions? What about master planned communities?
- This does not apply to the existing multi-family that was there prior to this developer? We see a big difference in what was built than compared to what is out there today as far as Brazos Ranch.
- Travis Tanner said no, 30% of the parking has to be covered and that is all it speaks to. He thinks for single family it is but not for multi-family development. If there is a single family residential component we require that.
- Councilor Grigar referenced the 15% landscaping. Our ordinance has 30% for multi-family, is that correct? With the layout you have could that be increased to 20%.
- Travis Tanner said he'd have to check but thinks that is correct.
- Steve Alvis stated we have a huge dog park, the lake and park are all contiguous with it. Those are amenities to this. Brazos Town Center as a whole has far exceeded well beyond any landscape requirement of the city.
- Councilor Barta stated she has some of the same concerns that Councilor Euton and some of the citizens do. She does not like the three stories and never anything twenty stories. This is Rosenberg and not downtown Houston. It will be high-end for young professionals that will work in Sugar Land or Houston. She has concern about going against the ordinances. She would rather see it comply more with our ordinances. She would hold off on it.
- Steve Alvis stated it would never get build under your current ordinance because it would not be economically feasible. We could build Section 8 under your ordinance but we couldn't build Class A under your current ordinance.
- Councilor Barta said these ordinances were made under previous Councils for a reason.
- Steve Alvis said it was so that each and every project had to come before you for approval. No apartments will be built under your ordinance. It is not economically feasible. If you look at the perfect master plan community its commercial, multi-family, townhome/patio homes, single family. That is how this was designed. It has achieved several awards. It is now the 30th largest shopping center in the nation. What you are telling me is Steve, don't build single-family, and don't build multi-family. Go build mini-storage. That doesn't do anything for the long term stability. Retailers come and go. K-Mart is your example of that. He has to look at the center as a whole as a master plan and do what I know is right for the long term stability of the center. You are asking me to not do what is right. They are platted multi-family today. When we came in for amendment #3, we changed that because we thought we could get an office project. We could not obtain an office project. They would not go because of the multi-family next door to it. This is an orphan piece. How do you make lemonade out of lemons? You want that person making \$55,000 to \$70,000 annually to afford this kind of rent so we have some night life and some city center town life in that project. That is what will help make that project sustain time.
- Rosenberg desperately needs, if you want to attract some high-end industry, you have to have the labor pool locally. This is an important component to attracting high-end engineering firms.
- Councilor Benton asked about getting a commercial building there. What was the understanding with past Councils? Were any height limitations discussed then?
- Steve Alvis stated none.
- Councilor Benton stated his preference is to not have apartments. Some people like them. There is a niche for apartments. He has the same concerns that the speakers had regarding multi-story apartments. What would the rent be for a one bedroom? He shares Dr. Ives concern about our school district and the percentage of rentals in Rosenberg. He's not sure what else could be put

here other than apartments.

- Steve Alvis stated this is a \$1.50 type product. Most of Rosenberg is under a \$1.00 or \$1.35. The monthly rent will be approximately \$1,100 per month. What Town Center is lacking is a little bit of night vibrancy. He just had the chairman of Cinemark here two weeks ago trying to get him to commit to both expand and update the theater and take it to extreme digital. Part of his issues is that the demographics aren't there today. This makes a big difference in deciding to make that investment. Every tenant brought in was a higher end tenant. This is a true public/private partnership. You ask what was your Council at the time we made this public/private partnership, what was their thinking. His commitment to my partner, you as a city, was to bring the highest end residential, single-family and retail that the market could demand and to be as patient as I could be. I could have sold all of that land 5 to 10 years ago. I would have made a lot more money. Land has to double in value every 5 years to breakeven. This wasn't about making money for the balance of Town Center. This was about doing the right thing and this is the right thing for this. It is not the right thing to put in mini-storage. If this is denied he would still not do that because it is not the right thing to do. He would come back and fight another day.
- Councilor Benton stated the original use for this property was commercial.
- Steve Alvis stated the original use is it's currently and continuous to be platted to allow for multi-family. In the second or third amendment we were trying to get an office deal so we put office in the master plan. We are on site plan 425. He does not know what site plan we are on in the master plan. It evolves and changes with market conditions and opportunities. What little bit of land out there we could sell tomorrow and put uses that you and I would not like but are allowed. You all chose a partner to invest with--this is my money in this project. This isn't an institutional partner. There is nobody that has more invested financially in this city than me. The last thing I will do is put something in there that would be detrimental to the value of that property.
- Councilor Benton stated the apartment ordinances and standards have probably evolved. We don't have zoning and people thought we have too many apartments. He thinks these would be a much higher quality than what we have. Could the developer get a little closer to the standards?
- Steve Alvis stated it is not financially feasible to do that. That's the reason your ordinance is written the way that it is. Your ordinance is common to a lot of cities and it is written that way so you get a bite at every apple. All of the ratios cannot fit a Class A. You have to have a certain number of units to make a Class A financially feasible to have on-staff management.
- Councilor McConathy referenced the site plan and stated in the project summary units B4, C1 and C2 in parenthesis it says second and third floor. That means that those units will be three story, is that correct?
- Steve Alvis stated yes.
- Councilor McConathy stated there was conflicting information because Travis Tanner referenced that along Vista Drive and Town Center Boulevard they would only be two stories. But, according to your site plan the units just referenced will be three story units facing Town Center Boulevard as well as Vista Drive. The three story will not be just interior to the project.
- Steve Alvis stated this is true on the one building but those are really architectural features. That entire building is not three story.
- Councilor McConathy stated when reference was made to the master association and the deed restrictions. Is there an expiration date on those deed restrictions?
- Steve Alvis stated no.
- Councilor McConathy stated she has the same concerns a lot of Council Members have already stated as well as some of our speakers and our commissioner having sat on the Planning Commission. The City has been very generous in their variances toward this project. She does not disagree with the points made about the quality of the project. It is a quality project. When you balance out the benefits pointed out in this project versus the variances the City would be giving and by variance in the Planning Commission there's requirements and funding or financing hardship is not one of them that qualifies for a variance. She wanted to point that out. You asked earlier what you could do to make this project work. Looking ahead at the growth coming and businesses coming that are bringing jobs here apartment complexes will be in our future and this is a good one. However, to make this work make it two story. You can still produce a quality project with all the amenities pointed out and it still be a feasible thing in your master plan.
- Steve Alvis stated it is a very tight sight as it is. It is ten acres and normally a feasible site is seventeen (17) acres. Both of the others are seventeen to nineteen acres to get to a critical mass to get a Class A project to work. It simply will not work. I can build to your ordinances but it will be Section 8 housing. In order to build to your ordinance that's the only way to be cost feasible. This project is good for the City. This is 10 acres and a \$35 million project. Your goose that lays the golden egg today for sales tax is that center. We need to do everything we can to keep that center

viable long term. This is an important component of it.

- Mayor Morales commented that what interests him is that it is in a master plan community area with 60% one-bedroom and with the companies on the horizon will bring single young professionals to this community. Regarding our standards, he thinks the present standards should be upheld. But, when somebody wants to invest the kind of money that has been invested in this center and it is deed restricted, we don't have a deed restricted, zoned city right now. With the 60% one bedroom and with garages makes it a high-end property.

Action: Councilor Pena made a motion, seconded by Councilor Euton to approve Resolution No.R-1860, a Resolution authorizing the City Manager to execute, for and on behalf of the City, Amendment No. 5 to the Town Center, Rosenberg, Texas Development Agreement, by and between the City and Partner A-S 70 Hwy 59-FM 762, L.P., a Texas Limited Partnership. **The motion failed by a vote of 3 to 4 as follows: Yeses: Mayor Morales, Councilor Pena and Grigar. Noes: Councilors McConathy, Euton and Barta. Abstention: Councilor Benton [Note: an abstention counts as a no vote].**

Further Comment:

- Councilor Benton asked Steve Alvis if he could go back to the developer. Steve Alvis stated Council has no idea how hard it was to get that many one bedrooms. The developer will not do it. They will put something else there. He is very disappointed.

4. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1861, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, BUDGET AMENDMENT 14-17 IN THE AMOUNT OF \$100,000.00, FOR LEGAL SERVICES.**

Executive Summary: The City budgeted \$100,000.00 for City Attorney Services in FY2014. Through June 2014, the City has spent approximately \$97,000.00. The City received the first invoice from Denton Navarro Rocha Bernal Hyde & Zech, P.C., for City Attorney services for the period of June 23, 2014, through July 31, 2014, in the amount of \$44,184.18. This invoice has since been adjusted by \$1,118.00 for a new balance of \$43,066.18. The second invoice for the month of August 2014 is \$29,377.09. Copies of these invoices have been provided for your review under separate cover.

Based on these two (2) invoices and an estimated amount for the September 2014 invoice, staff is requesting an increase of \$100,000 to the FY2014 Budget for City Attorney Services. Budget Amendment 14-17, attached as Exhibit "A" to Resolution No. R-1861, will move \$40,000.00 from the Outside Professional Services - Legal line item and \$60,000.00 will be funded with excess sales tax revenues.

Staff recommends approval of Resolution No. R-1861 as presented.

Key discussion points:

- Joyce Vasut read the Executive Summary regarding the item.

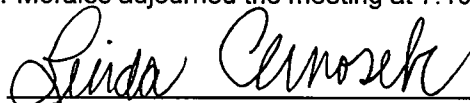
Questions/Comments:

- Councilor Benton stated he is concerned overall with the legal expenses.
- Councilor Grigar stated he has the same concern. It has gone up compared to what it used to be. Every time we increase the budget it is with excess sales tax. Are we keeping track of all of this?
- Joyce Vasut stated in FY14 sales tax was about \$1 million over budget. We have only adjusted \$60,000 here and less than \$100,000 previously this fiscal year.

Action: Councilor McConathy made a motion, seconded by Councilor Barta to approve Resolution No. R-1861, a Resolution authorizing the City Manager to execute, for and on behalf of the City, Budget Amendment 14-17 in the amount of \$100,000.00, for legal services. The motion carried by a unanimous vote.

5. **ADJOURNMENT.**

There being no further business Mayor Morales adjourned the meeting at 7:10 p.m.


Linda Cernosek, TRMC, City Secretary